



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
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2007 JAN 30 AM 8:13

STATE REGION VIII  
HEARING CLERK

Ref: 8ENF-W

JAN 30 2007

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Richard Oppen, Director  
Montana Department of  
Environmental Quality  
1520 E. Sixth Avenue  
P.O. Box 200901  
Helena, MT 59620-0901

NOTICE OF VIOLATION

Docket No. **SDWA-08-2007-0021**

Town of Darby  
P.O. Box 37  
Darby, MT 59829  
PWS ID# MT0000195

Dear Mr. Oppen:

The above referenced public drinking water system has violated certain provisions of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f, *et seq.* and the National Primary Drinking Water Regulations at 40 C.F.R. part 141. The violations consist of exceeding the maximum contaminant level (MCL) for total coliform, exceeding the acute MCL for total coliform, failure to monitor for bacteriological quality, failure to take five routine samples following a positive total coliform sample in the preceding month, failure to monitor for lead and copper, failure to submit an optimal corrosion control treatment (OCCCT) plan within six months of exceeding the copper action level, failure to monitor for water quality parameters, failure to provide public notice, and failure to notify the State of the violations. Our records, obtained from the Montana Department of Environmental Quality's Public Water Supply Online Query Reports, indicate the violations noted below. Please notify Kimberly Pardue Welch of my staff at (303) 312-6983 within 20 days if your records show any discrepancies with these determinations of violation.

<u>Date of Violation</u>	<u>Violation</u>
July and August 2002, September and November 2004, and August 2005	Exceeded the MCL for total coliform bacteria. [40 C.F.R. § 141.63(a)(2)]
September 2005	Exceeded the acute MCL for total coliform bacteria. [ 40 C.F.R. § 141.63(b)]
July 2004	Failure to monitor for bacteriological quality. [40 C.F.R. § 141.21(a)]
September and November 2002, and December 2004	Failure to take five routine samples following a total coliform positive sample the preceding month. [40 C.F.R. § 141.21(b)(5)]
Jan – June and July -Dec 2002, 2003, 2004, and July – December 2005	Failure to monitor for lead and copper. [40 C.F.R. § 141.86 (d)(1)(ii)] (System failed to take the correct number of samples in Jan – June 2004 and July – December 2005 monitoring periods.)
January 2005 to the present	Failure to submit an optimal corrosion control treatment (OCCT) plan within six months of exceeding the copper action level. [40 C.F.R. § 141.81 (e)] (System first exceeded copper action level during the January – June 2004 monitoring period, and thereafter for samples taken in Jan – June 2005, July – Dec 2005, Jan – June 2006 and July – Dec 2006.)
Jan – June and July – December 2002, 2003, 2004, 2005, 2006	Failure to monitor for water quality parameters. [40 C.F.R. § 141.87 (b)] (System failed to take the correct number of samples in July – December 2005 and January – June 2006.)
2002 – 2005	Failure to notify public of above referenced violations except failure to monitor for lead and copper in the Jan – June and July – Dec 2004 monitoring periods and total coliform MCLs in July 2002 and September 2004. [40 C.F.R. § 141.201]
2002 - 2006	Failure to report the above-referenced violations to the State [40 C.F.R. §§ 141.21(g)(2) and 141.31(b)]

This NOTICE OF VIOLATION is issued pursuant to section 1414(a) of the SDWA, 42 U.S.C. § 300g-3(a). If the State does not commence appropriate enforcement action within 30 days from the receipt of this notification, the EPA is authorized either to issue an Administrative Order under section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g) requiring the public water system to comply with the regulations or requirements, or to commence civil action under section 1414(b) of the SDWA, 42 U.S.C. § 300g-3(b).

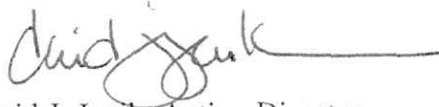
Please inform EPA of any change in the compliance status of this system. You may wish to confer with my staff to determine the Agency's position concerning this system and to exchange appropriate information. If the State does not commence appropriate enforcement action within 30 days from the receipt of the notification, EPA will proceed with issuance of an administrative order. Our technical contact is Kimberly Pardue Welch at (303) 312-6983.

A copy of this NOTICE OF VIOLATION has been concurrently sent to the system identified above. Also enclosed for the benefit of the System is a copy of EPA's Small Business Regulatory Enforcement and Fairness Act (SBREFA) fact sheet containing information on compliance assistance resources and tools available to small businesses. EPA has agreed to notify small businesses of their right to comment on regulatory enforcement activities at the same time of an Agency enforcement action. SBREFA does not eliminate the responsibility to comply with the Act.

Sincerely,



Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice



David J. Janik, Acting Director  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure

SBREFA fact sheet

cc: Mayor Rick Scheele  
(via Certified Mail with return receipt)  
John Arrigo, MT DEQ



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